

Appl. No.: 09/742,088
Docket No.: 1248-0526P
Reply to Office Action of August 26, 2003

REMARKS

Claims 1-19 are pending in this application. Claims 1, 10 and 19 are independent claims. By this amendment, claims 1 and 5 are amended for clarity and new claims 7-19 are added. Reconsideration in view of the above amendments and following remarks is respectfully solicited.

Applicant respectfully points out that although the PTOL-326 cover sheet fail to indicate the status of the drawings, a telephone call on August 28, 2003 to the Examiner in charge of this case verified that the drawings are accepted. If this is in error, please notify applicant immediately if there are any drawing objections.

The Claims Define Patentable Subject Matter

The Office Action rejects: (1) claims 1, 3 and 4 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,590,682 to Hamilton (hereafter Hamilton); (2) claims 1 and 2 under 35 U.S.C. §102(a) as being anticipated by Japanese Patent 11-112431 to Shimizu; and (3) claims 5 and 6 under 35 U.S.C. §103(a) as being unpatentable over Hamilton. These rejections are respectfully traversed.

Applicant respectfully submits that all of the cited references, either alone or in combination, fail to teach or suggest each and every feature as set forth in the claimed invention.

For example, as recited in claim 1, the optical space transmission device of the present application realizes desirable bi-directional communications (one to plural bi-directional optical communications) between a host device and plural peripheral devices.

In the present application, the host device inquires upon each peripheral device to confirm that it is a peripheral device to be communicated with by polling, and communication is established by arranging all the peripheral devices that desire to be communication with in order so that the host device can communicate with the peripheral devices simultaneously and independently.

In the present invention, subsequent to the polling sequence, the transmission result detection means and the luminous intensity adjusting means provided in the host device adjusts the respective luminous intensities of the light emitted to respective peripheral devices. As such, the luminous intensity from respective peripheral devices to the host is optimized.

In addition, according to the optical space transmission device of the present invention, the luminous intensities with respect to a single host device and plural peripheral devices can be optimized simultaneously.

In contrast to the present invention, both Hamilton and Shimizu fail to teach or suggest a one to plural bi-directional communications, but instead only teaches a one to one communication. As such, both Hamilton and Shimizu are completely silent about the foregoing characteristic structure of the present invention concerning the adjusting of the luminous intensity

subsequent to the polling sequence with respect to the plural peripheral devices.

Furthermore, both Hamilton and Shimizu fail to even remotely disclose the polling for confirming peripheral devices that are to be communicated with, and arranging all of the peripheral devices which desire to be communicated with in an order.

As such, both Hamilton and Shimizu fail to teach or suggest optimizing the luminous intensities with respect to a single host device communicating with plural peripheral devices simultaneously.

According to MPEP §2131, "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. Of California*, 814 F.2d 628, 631, 2 USPQ2d 1051 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ...claims." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913 (Fed. Cir. 1989). The elements must be arranged as required by the claims, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

Applicant respectfully submits that the Office Action has failed to establish the required *prima facie* case of anticipation because the cited references, both Hamilton and Shimizu, fail to teach or suggest each and every feature as set forth in the claimed invention.

Applicant respectfully submits that independent claims 1, 0 and 19 are allowable over both Hamilton and Shimizu for at least the reasons noted above.

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As for each of the dependent claims not particularly discussed above, these claims are also allowable for at least the reasons set forth above regarding their corresponding independent claims, and/or for the further features claimed therein.

Accordingly, withdrawal of the rejection of claims 1-4 under 35 U.S.C. §102(e) and §102(a) is respectfully solicited.

To establish a *prima facie* case of Obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP 706.02(j).

Applicant respectfully submits that not only does Hamilton fail to teach or suggest each and every feature as set forth in the claimed invention, but that one of ordinary skill in the art would not have been motivated to modify the teachings of Hamilton to arrive at the claimed invention because there is no teaching or suggestion in Hamilton regarding how or why one would modify such a system to arrive at the claimed invention.

Applicant respectfully submits that dependent claims 5 and 6 are allowable over Hamilton for at least the reasons noted above.

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Accordingly, withdrawal of the rejection of claims 5 and 6 under 35 U.S.C. §103(a) is respectfully requested.

Conclusion

In view of the foregoing, Applicant respectfully submits that the application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact Carolyn T. Baumgardner (Reg. No. 41,345) at (703) 205-8000 to schedule a Personal Interview.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment from or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §1.16 or under 37 C.F.R. §1.17; particularly, the extension of time fees.

Respectfully submitted,
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